



Department of Energy  
Acquisition Regulation

No. 96-04  
Date March 8, 1996

# ACQUISITION LETTER

## AUTHORITY

This Acquisition Letter is issued by the Procurement Executive pursuant to a delegation from the Secretary and under the authority of the Department of Energy Acquisition Regulation (DEAR) subsections 901.301-70 and 901.301-71.

\*\*\*\*\*

- I. Purpose. The purpose of this Acquisition Letter is to provide implementation guidance on sections 3001 and 3002 of the Energy Policy Act, (EPAc) 42 U.S.C. 13542 for acquisition awards.
- II. Background. Sections 3001 and 3002 provide general provisions covering the research, development, demonstration, and commercial application activities to be carried out under EPAc. Section 3001 authorizes the Secretary to carry out research, development, demonstration and commercial application programs through the use of contracts, cooperative agreements, grants, cooperative research and development agreements, and joint ventures. It also extends the protection of information coverage of the Stevenson-Wydler Technology Innovation Act of 1980, 15 U.S.C. 3710 a(c)(7) to research, development, demonstration, and commercial application programs and activities under EPAc.

Section 3002 imposes cost sharing requirements for such activities. For research and development programs, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. For demonstration and commercial application programs, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project to be provided from non-Federal sources.

The Secretary may reduce or eliminate the non-Federal requirement for cost sharing for research and development programs if the Secretary determines that the research and development is of a basic or fundamental nature. For demonstration and commercial application programs, the Secretary may reduce the non-Federal requirement if the reduction is necessary and appropriate considering the technological risks involved in the project and the project is necessary to meet the objectives of EPAc.



In calculating the amount of the non-Federal commitment, the Secretary shall include cash, personnel, services, equipment, and other resources.

### III. Guidance.

#### A. Applicability

The requirements of Sections 3001 and 3002 apply to contracts for research and development, demonstration, and commercial application projects under an EAct covered program which are made on or after October 24, 1992, the effective date of EAct.

Any new contracts awarded after the effective date of this Acquisition Letter must contain the cost sharing requirement.

The Department of Energy has determined that programs executed under the authority of the Small Business Innovation Research and Small Business Technology Transfer programs are not covered under EAct.

#### B. Contracting Officer Responsibilities.

Contracting officers shall include the following information in any solicitation for research and development, demonstration, and commercial application programs covered under EAct:

(1) Protection of Information. The provisions of Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980, relating to the protection of information, shall apply to research, development, demonstration, and commercial application programs and activities under this Act. These provisions specify:

- o The protection from public disclosure of trade secrets or financial or commercial information that is privileged or confidential and obtained in the conduct of research or as a result of activities under this Act from a non-Federal party to a covered contract.
- o The protection from public disclosure, for a period of up to five years from development, of information resulting from the contract that would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from a non-Federal party to a covered contract. This protection from public disclosure includes exemption from disclosure pursuant to 5 U.S.C. 552(b) (The Freedom of Information Act.)

The Contracting Officer shall coordinate with DOE Patent Counsel prior to award of any contract covered under EAct to assure appropriate intellectual property provisions. In no event shall the Contracting

In addition to including the appropriate information in solicitations, the contracting officer must also ensure that the award document incorporates the cost sharing requirement and the cost sharing is obtained.

C. Waiver of cost sharing requirement.

The Secretary has delegated the authority to make the determinations waiving the section 3002 non-Federal cost sharing requirement to the Deputy Assistant Secretary for Procurement and Assistance Management. The Deputy Assistant Secretary for Procurement and Assistance Management, by separate document, redelegated authority to make EAct cost sharing determinations to the Heads of Contracting Activities (HCAs) and, with respect to the financial assistance under the Office of Energy Research Program Rule, 10 CFR Part 605, to the Director, Office of Energy Research.

Any determination waiving or reducing a cost sharing requirement must be based on the section 3002 criteria. For research and development programs, DOE must determine that the research and development is of a basic or fundamental nature.

For demonstration and commercial application programs, the determination must show that the reduction is necessary and appropriate considering the technological risks involved in the project and the project is necessary to meet the objectives of EAct. This determination should be based on demonstrated results of activities such as the following:

(1) solicitations. The contracting activity has attempted to obtain cost sharing, but industry and others did not respond to the solicitation.

(2) other studies. Market surveys or other studies have been conducted which provide significant data that commercial organizations are not willing to participate in the financial assistance program or other activity because of the cost sharing requirements.

IV. Effective Date. This Acquisition Letter is effective upon issuance.

V. Expiration Date. This Acquisition Letter will remain in effect until cancelled.

VI. Covered Programs. The attached listing identifies EAct covered programs.

**COVERED PROGRAMS- § 3002**

**EPACT  
SECTIONS**

**Fossil Energy R & D**

**Coal *All Programs Including***

**§ 1301-1312**

**Coal-fired Diesel Engines**

**§ 1302**

**Clean Coal, Waste-To-Energy**

**§ 1303**

**Nonfuel Use of Coal**

**§ 1304**

**Coal Refinery Program**

**§ 1305**

**Coalbed Methane Recovery**

**§ 1306**

**Metallurgical Coal Development**

**§ 1307**

**Utilization of Coal Wastes**

**§ 1308**

**Underground Coal Gasification**

**§ 1309**

**Low-rank Coal Research and Development**

**§ 1310**

**Magnetohydrodynamics**

**§ 1311**

**Oil Substitution Through Coal Liquefaction**

**§ 1312**

**Clean Coal Technology**

**§ 1321**

**COVERED PROGRAMS - § 3002****Fossil Energy R & D****Petroleum***Enhanced Oil Recovery* All Programs Including:

Heavy Oil

Light Oil

Tar Sands

*Advanced Extraction & Process Tech* All Programs Including:

Geological Science/Extract Research

SPT Technology/Environmental Research

University Geoscience Research

*Oil Shale* All Programs:**Gas***Natural Gas Research* All Programs Including:

Resource &amp; Extraction

Delivery &amp; Storage

Utilization

Environmental Research &amp; Regulatory Analysis

Midcontinent Energy Research Center\*

*Fuel Cells* All Programs Including:

Advanced Research

Phosphoric Acid Systems

Molten Carbonate Systems

Advanced Concepts

**Energy Conservation***Transportation* All Programs Including:*Alternative Fuels Utilization**Materials Development**Heat Engine Development**Electric & Hybrid Propulsion Development**Implementation & Deployment**Management***EPACT  
SECTIONS**

§ 2011

§ 2011

§ 2011

§ 2011

§ 2011

§ 2011

§ 2011

§ 2011

§ 2012

§ 2013-2015

§ 2013, 2014

§ 2013, 2014

§ 2013, 2014

§ 2013, 2014

§ 2013, 2015

§ 2115

§ 2115

§ 2115

§ 2115

§ 2115

§ 2021-2025,

2027, 2028,

2112

§ 2021, 2023

§ 2021

§ 2021, 2112

§ 2021, 2025

§ 2021

§ 2021

<i>Management-Capital Equipment</i>	§ 2021
<i>Advanced Automotive Fuel Economy</i>	§ 2021, 2022
<i>Biofuels User Facility*</i>	§ 2021, 2024
<i>Advanced Diesel Emissions Program*</i>	§ 2021, 2027
<i>Telecommuting Study*</i>	§ 2021, 2028
<b>Utility</b> All Programs Including:	
<i>Integrated Resource Planning</i>	§ 2101
<i>Program Direction-IRP</i>	§ 2101
<i>Energy Management Control</i>	§ 2101
<b>Industry</b> All Programs Including:	
<i>Industrial Wastes</i>	§ 2101-2108
<i>Municipal Solid Wastes</i>	§ 2101
<i>Cogeneration</i>	§ 2101
<i>Electric Drives</i>	§ 2101
<i>Materials Processing</i>	§ 2101, 2105
<i>Separations</i>	§ 2101, 2107
<i>Sensors &amp; Controls</i>	§ 2101
<i>Bioprocessing</i>	§ 2101
<i>Enabling Materials</i>	§ 2101
<i>Improved Combustion Efficiency</i>	§ 2101
<i>Process Heating &amp; Cooling</i>	§ 2101, 2107
<i>Implementation &amp; Deployment</i>	§ 2101, 2102
<i>Management</i>	§ 2101
<i>Management-Capital Equipment</i>	§ 2101
<i>National Advanced Manufacturing Tech Initiative*</i>	§ 2101
<i>Pulp &amp; Paper*</i>	§ 2101, 2202
<i>Steel, Aluminum, and Metal Research*</i>	§ 2101, 2103
<i>Energy Efficient Environmental Program*</i>	§ 2101, 2106
	§ 2101, 2108
<b>Buildings</b> All Programs Including:	
<i>Solar Technologies</i>	§ 2101-2108
<i>Materials &amp; Structures</i>	§ 2101
<i>Lighting &amp; Appliances</i>	§ 2101
<i>Heating &amp; Cooling Equipment</i>	§ 2101
<i>Indoor Air Quality</i>	§ 2101, 2102
<i>Building Systems Research</i>	§ 2101
<i>Federal Energy Management Program</i>	§ 2101
<i>Implementation &amp; Deployment</i>	§ 2101
<i>Management</i>	§ 2101
<i>Management-Capital Equipment</i>	§ 2101

*Advanced Buildings for 2005\**

§ 2101, 2104

**Energy Supply R & D**

**Energy Research**

*Fusion Energy All Programs Including:*

Confinement Systems	§ 2114
Development & Technology	§ 2114
Applied Plasma Physics	§ 2114
Planning & Projects	§ 2114
Inertial Fusion Energy	§ 2114
Program Direction-Op Exp	§ 2114
Capital Equipment & Construction	§ 2114

*Basic Energy Sciences All Programs Including:*

Materials Sciences	§ 2203
Chemical Sciences	§ 2203
Energy Biosciences	§ 2203
Engineering & Geosciences	§ 2203
Applied Math Sciences	§ 2203
Advanced Energy Projects	§ 2203, 2204
Advanced Neutron Source	§ 2203
Program Direction	§ 2203
Capital Equipment	§ 2203

*Advisory & Oversight/Program Direction*

§ 2203

*Energy Research Analysis*

§ 2203

*University & Science Education Programs*

§ 2203

*Experimental Program to Stimulate Competitive Research\**

§ 2203

*Laboratory Technology Transfer*

§ 2203

*Multi-Program Laboratory Support*

§ 2203

**Nuclear Energy**

*Light Water Reactor*

§ 2123, 2126

*Advanced Reactor R&D*

§ 2121, 2122

2124, 2126

*Facilities*

§ 2126

**Solar & Renewables**

*Solar & Other Energy All Programs Including:*

§ 2021, 2026,

§ 2111, 2117

Photovoltaics

§ 2111

Biofuels

§ 2021

Solar Technology Transfer

§ 2111

NREL

§ 2111

Program Direction- Other Solar Energy	§ 2111
Solar Building Technology Research	§ 2111
Solar Thermal Energy Systems	§ 2111
Wind Energy Systems	§ 2111
Ocean Energy System	§ 2111
International Solar Energy Program	§ 2111
Resource Assessment	§ 2111
Program Support	§ 2111
<i>Geothermal</i>	§ 2111
<i>Hydrogen Research</i>	§ 2026
<i>Electric Energy Systems</i> including: Superconductivity	§ 2117, 2111
<i>Energy Storage Systems</i>	§ 2111
<b>Environmental Restoration &amp; Waste Management</b>	
<i>Facility Transition-Fast Flux Test Facility</i>	§ 2116
<b>Civilian Waste R &amp; D</b>	§ 2113
<b>Electric &amp; Magnetic Fields Research and Public Dissemination Program*</b>	§ 2118
<b>Spark M. Matsunga Renewable Energy &amp; Ocean Technology Center*</b>	§ 2111, 2119

\*Direct citation from Title XX-XXIII.